

**61.5955 Election to participate in money purchase plan by member in nonhazardous position who began participating in KERS or CERS before January 1, 2019. (Declared void -- See LRC Note Below)**

Notwithstanding KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852:

- (1) Subject to the provisions of this section, any participating member who began participating in a nonhazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System prior to July 1, 2019, may on or after July 1, 2019, but prior to January 1, 2021, elect to be provided the following benefits:
  - (a) Participation in the 401(a) money purchase plan provided by KRS 61.5956 in lieu of accruing any additional benefits provided by KRS 61.510(14), 61.595, 61.597, or 78.510(14); and
  - (b) Any other benefits the person would be eligible for in the Kentucky Employees Retirement System or County Employees Retirement System based upon the election provided by this section or his or her membership date in the state-administered retirement systems;
- (2) The election provided by this section shall be made in writing and on a form prescribed by the Kentucky Retirement Systems board;
- (3) For each member who makes an election provided by this section, any service credit, final compensation, or other benefits the member has accrued prior to the effective election date, shall remain but the member shall not accrue any additional service, final compensation, or any other benefits in a nonhazardous position in the Kentucky Employees Retirement System or County Employees Retirement System on or after the effective election date for purposes of determining benefits under KRS 61.510(14), 61.595, 61.597, or 78.510(14);
- (4) Before accepting an election provided by this section, the Kentucky Retirement Systems board shall provide the member with information detailing the potential results of the member's election;
- (5) An election made pursuant to this section shall be irrevocable;
- (6)
  - (a) A member of the Kentucky Employees Retirement System or the County Employees Retirement System shall not be eligible to make an election prescribed by this section until the Kentucky Retirement Systems receive a favorable private letter ruling from the Internal Revenue Service regarding this section.
  - (b) If the Internal Revenue Service denies the request for a private letter ruling as provided by paragraph (a) of this subsection, this section shall be void.
  - (c) The Kentucky Retirement Systems may promulgate administrative regulations under KRS Chapter 13A in order to carry out this section; and
- (7) This section shall not apply to retirees who were reemployed on or after September 1, 2008, and who are not eligible to participate in the systems during reemployment.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 107, sec. 38, effective July 14, 2018. -- Created 2017 Ky. Acts ch. 125, sec. 6, effective March 27, 2017.

**Legislative Research Commission Note** (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.